



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1114

court-ordered treatment; case records; confidentiality

Purpose

Modifies application requirements for emergency admissions for court-ordered evaluation. Outlines circumstances in which courts have concurrent jurisdiction over a patient subject to court-ordered treatment.

Background

A written application for emergency admission for a court-ordered evaluation must be made to an evaluation agency before a person may be hospitalized in the agency. The application must be made by a person with knowledge of the facts requiring emergency admission and must include the following: 1) a statement by the applicant that the applicant believes on the basis of personal observation that that the person is a danger to self or others due to a mental disorder, and that the person is likely to suffer serious physical harm to or inflict serious harm on another without immediate hospitalization; 2) the specific nature of the danger; 3) a summary of the observations upon which the statement of danger is based; and 4) the signature of the applicant ([A.R.S. § 36-524](#)).

If the court finds by clear and convincing evidence that a proposed patient, as a result of a mental disorder, is a danger to self or others or has a persistent or acute disability or a grave disability, is in need of treatment and is either unwilling or unable to accept voluntary treatment, the court must order the patient to undergo treatment as specified. An order to receive treatment must not exceed specified time limitations based on the type of treatment and the type of mental disorder present. The court may also order an investigation concerning the need for a guardian or conservator, or both, on a finding that there is reasonable cause to believe that patient is an incapacitated person or is a person in need of protection ([A.R.S. § 36-540](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. States, except as provided by law, court rule or court order, that case records and case information regarding court-ordered evaluations and treatment related to mental disorders are not open to public access or inspection.
2. Allows a court to authorize the release of such case records and information for good cause shown.
3. Allows the Supreme Court to adopt appropriate rules to govern access to such case records and information.

4. Requires the statement filed with an emergency admission application to include:
 - a) whether the applicant believes the person has a persistent or acute disability or grave disability, and is unaware or unwilling to undergo voluntary treatment;
 - b) the specific nature of the harm or illness the person is likely to suffer or inflict without immediate hospitalization; and
 - c) a summary of the facts that support the statements made by the applicant, including the observations of persons who witnessed the events described in the statements or the behaviors of the person who is subject to the application.
5. Allows an admitting officer to admit a person to Department of Health Services as an emergency patient if the admitting officer finds, as a result of an examination and investigation, that there is reasonable cause to believe that the person has a persistent or acute disability or a grave disability and is unable or unwilling to undergo voluntary treatment.
6. Requires that a petition for any court-ordered treatment include additional outlined information, regardless of whether the petition relates to a case involving grave disability.
7. Requires the petition for court-ordered treatment to include, if the person who is the subject of the petition has an existing guardian, a statement identifying the existing guardian and a request that the court consider imposing additional duties on the existing guardian.
8. Requires, if the petition contains a request for court action, a copy of the petition to be mailed to an agency that is nominated as guardian or conservator or the person who is identified as an existing guardian, rather than to the public fiduciary in the county of the patient's residence or in which the patient was found before evaluation.
9. States that the superior court in a county where the patient is found or resides has concurrent jurisdiction with the court in the county that issued the court order for treatment for the purposes of:
 - a) enforcing the court order for treatment;
 - b) ordering changes to the treatment plan; or
 - c) amending the order to require the patient to undergo further inpatient treatment.
10. Requires the court, if the proceedings to commence enforcement of the order for treatment do not occur in the same court that originally entered the order for treatment, to consult with the original court of entry and determine, unless prevented by an emergency:
 - a) whether to hold hearings and enter orders to facilitate enforcement or administration of the court order;
 - b) whether to refer the case back to the court of original entry for further proceedings; or
 - c) whether to transfer the entire case to the court of original entry in that county for all further proceedings.
11. Allows the Supreme Court to adopt rules to govern the procedures to be used in enforcing and administering court orders for treatment in the various counties of Arizona and the transfer of cases between counties involving court order for treatment.

12. Requires the Supreme Court, for the purpose of facilitating treatment of a patient, to adopt a rule to establish a program to enable the judges of the superior court, county attorneys, patients' attorneys, the regional behavioral health authority and behavioral health service providers in any county to determine the existence of an active court order for treatment and the history of court orders for treatment entered for a patient by a superior court in any county.
13. Requires the program to ensure that the information shared with other persons or entities is necessary only for the purposes stated in this act and must require that the information shared be maintained as confidential by the receiving person or entity.
14. Modifies the definition of *persistent or acute disability* to include a severe mental disorder that significantly impairs judgement, reason, behavior or capacity to recognize reality, irrespective of whether such impairment has a substantial probability of causing the person to suffer if left untreated.
15. Makes technical and conforming changes.
16. Becomes effective on the general effective date.

Prepared by Senate Research

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ZD/sr